

ACT No. 814

Regular Session, 2004

HOUSE BILL NO. 1489

BY REPRESENTATIVE JOHNS

AN ACT

To enact R.S. 6:966.1, relative to default remedies; to provide for a notice of repossession; to provide for contents of the notice; to provide for fees; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:966.1 is hereby enacted to read as follows:

§966.1. Notice of repossession; contents; fees

A. Within three days of taking possession of collateral, a secured party who utilizes the additional default remedies provided by this Chapter to obtain possession of collateral shall file a "Notice of Repossession" with the recorder of mortgages in the parish where the collateral was located and with the appropriate official. The "Notice of Repossession" shall contain the debtor's name, last known address, date of birth, and a description of the collateral repossessed. For purposes of this Section, the appropriate official shall be:

(1) The constable of the justice of the peace court, if the debtor's last known address is within the election district of the justice of the peace court and the outstanding balance is within the jurisdictional limits of the court.

(2) The constable or marshal of the city court, if the debtor's last known address is within the geographic boundaries of the city court and the outstanding balance is within the jurisdictional limits of the court.

(3) The sheriff for the parish of the debtor's last known address, if there is no other appropriate official as defined in this Subsection.

B. The secured party shall pay seventy-five dollars to the recorder of mortgages and two hundred fifty dollars to the appropriate official for each "Notice of Repossession" filed.

1 C. If the sheriff is the appropriate official in a parish having a population in
2 excess of four hundred sixty-five thousand persons, as determined by the most recent
3 federal decennial census, then there shall be no fee paid to the sheriff; however, the
4 "Notice of Repossession" shall still be filed with the sheriff.

5 D. The commissioner of the Office of Financial Institutions shall have the
6 authority to promulgate rules and regulations in accordance with the Administrative
7 Procedure Act to implement the provisions of this Chapter, including but not limited
8 to establishing fees and assessments.

9 Section 2. This Act shall take effect and become operative if and when the Act which
10 originated as Senate Bill No. 768 becomes law and is effective.

11 Section 3. In the event of any conflict between the provisions of this Act and those
12 of any other Act adopted by the legislature at its Regular Session in 2004, regardless of
13 which Act is adopted later or signed later by the governor, the provisions of this Act shall
14 prevail.

15 Section 4. Because the legislature finds and declares that questions of law may be
16 raised by some persons with respect to the constitutionality of some of the provisions of this
17 Act or the Act which originated as Senate Bill No. 768, the public welfare requires that such
18 questions of law be resolved with expedition prior to such time as its provisions take effect
19 in order to avoid disruption of the orderly implementation of its provisions. Therefore, the
20 legislature finds that the remedy of declaratory judgment to determine the constitutionality
21 of the provision of this Act or the provisions of the Act which originated as Senate Bill No.
22 768 should be immediately made available in order to avoid confusion by the public.
23 Therefore, any interested party domiciled in this state may institute an action in the
24 Nineteenth Judicial District Court seeking a declaratory judgment to determine the
25 constitutionality of the provisions of this Act. The attorney general and the commissioner
26 of the Office of Financial Institutions shall be served with a copy of the proceeding and be
27 entitled to be heard. In the interest of further expediting this procedure, the Nineteenth
28 Judicial District Court, First Circuit Court of Appeal, and the Louisiana Supreme Court are

1 urged to minimize all unnecessary delays and may suspend all applicable rules of court for
2 this limited purpose.

3 Section 5. Unless otherwise specifically excepted, if any provision of this Act or its
4 application is held to be invalid or unconstitutional by a final and definitive judgment, such
5 invalidity shall not affect other provisions or application of the Act which are not specifically
6 declared to be invalid or unconstitutional and which can be given effect without the invalid
7 provision or application, and to this end the provisions of this Act are hereby declared
8 severable.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____